

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DEMARIAN CLEMONS,

*Plaintiff,*

vs.

ELIZABETH ACEVEDO,

*Defendant.*

2:09-cv-01948-KJD-PAL

ORDER

This prison civil rights matter comes before the Court on plaintiff's second application to proceed *in forma pauperis* (#5).

The Court's prior order (#4) denied plaintiff's first application (#1) to proceed *in forma pauperis* because plaintiff but did not sign and complete the required form and further because the financial information needed to be updated following upon plaintiff's transfer from the Clark County Detention Center to the custody of the Nevada Department of Corrections.

The prior order clearly stated that "the Court requires a complete Application to Proceed *in Forma Pauperis* with a current signed financial certificate executed by a prison official from the Nevada Department of Corrections and a copy of his current inmate trust account statement." #4, at 1.

The prior order also clearly stated: "Failure to comply will result in dismissal of this action." #4, at 2.

Plaintiff was provided with a copy of the required form together with the instructions for same.

1 The second application again is deficient. Plaintiff attached an executed financial  
2 certificate, but he did not attach a copy of his current inmate trust account statement from the  
3 Nevada Department of Corrections.

4 The application therefore will be denied and the matter dismissed without prejudice,  
5 due to plaintiff's failure to comply with the prior order of the Court. In entering a dismissal, the  
6 Court has considered the public's interest in expeditious resolution of litigation, the Court's  
7 need to manage its docket, the risk of prejudice, the public policy favoring disposition of cases  
8 on their merits, and the availability of less drastic sanctions. In this regard, the Court notes  
9 that it does not appear from the allegations of the complaint that a promptly and properly  
10 commenced new action will be untimely. Moreover, the request for injunctive relief as to the  
11 sole named Clark County Detention Center defendant is moot following upon plaintiff's  
12 transfer to the custody of the Nevada Department of Corrections.

13 If plaintiff wishes to pursue his claims, he must file a new complaint and a new  
14 application to proceed *in forma pauperis* with all required attachments in a new civil action.

15 IT THEREFORE IS ORDERED that plaintiff's second application (#5) to proceed *in*  
16 *forma pauperis* is DENIED without prejudice and that this action is DISMISSED without  
17 prejudice.

18 The Clerk of Court shall enter final judgment accordingly, dismissing this action without  
19 prejudice.

20 DATED: June 18, 2010

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24 KENT J. DAWSON  
25 United States District Judge  
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